IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 18TH SEPTEMBER 2007 / 27TH BHADRA 1929

WP(C).No. 20675 of 2007(J)

I.A.1148/07 IN OS.239/2006 of II ADDL.SUB COURT,ERNAKULAM
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PETITIONER:

I.A.JAMES @ JAMES THOMAS PAUL,
S/O.ANTONY, AGED ABOUT 39 YEARS,
ILLIPARAMBIL HOUSE, YUVAKALATHARANG ROAD,
ELAMAKKARA,ERNAKULAM,COCHIN-682 026.

BY ADV. SRI.DENIZEN KOMATH

RESPONDENT:

ANAND KUMAR PAI,S/O.M.D.PAI,
AGED 42 YEARS, INDRADHANUS APARTMENTS,
T.D.ROAD,COCHIN-682 035.

BY ADV. SRI.THOMAS M.JACOB
SRI.G.RAJAGOPAL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

EXT. P1 TRUE COPY OF THE PLAINT IN O.S.NO.239/06.

EXT.P2 TRUE COPY OF THE WRITTEN STATEMENT

EXT.P3 TRUE COPY OF THE I.A.1148/07 IN O.S.NO.239/06 ON THE FILE OF THE SUB COURT, ERNAKULAM.

EXT.P3(A) TRUE COPY OF THE INTERROGATORIES FILED ALONG WITH EXT.P3.

EXT.P4 TRUE COPY OF THE OBJECTION PREFERRED BY THE PETITIONER.

EXT.P5 TRUE COPY OF THE IMPUGNED ORDER DATED 6.6.07.

[True copy]

P.A. to Judge.

M.N. KRISHNAN, J.

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W.P.C. NO. 20675 OF 2007

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Dated this the 18th day of September, 2007.

J U D G M E N T

This writ petition is filed seeking to set aside Ext.P5 order whereby the learned Sub Judge, Ernakulam directed the defendant to answer the questions 1 to 7, 15, 16 and 19 to 25. It is submitted by the learned counsel for the writ petitioner that order 11 Rule 2 of the CPC fixes a time limit for filing an application for serving interrogatories. The objects and reasons as quoted by the author is relied on by the learned counsel for the writ petitioner which makes a suggestion regarding the necessity to have a time limit. But neither the original section nor the present Section available indicates such a time frame. Moreover, this application has been filed when the matter has been posted for pre-trial steps and therefore it is perfectly within time.

2. The next question to be considered is regarding the relevancy. The suit is one for realisation of the money on a cheque. It is alleged that the defendant has signed the

cheque as a proprietor of the concern and he had brought down the cheque and handed over to the plaintiff towards discharge of the liability. It was not executed in the presence of the plaintiff. Now everything is denied by the defendant. So, in order to find out the facts it will be very relevant for the parties to decide the issue between the parties and as according to the plaintiff the defendant is having special knowledge over those matters on which interrogatories are to be answered. The Court below rightly found that those answers may be really relevant and necessary and it will save time of the Court if it is called upon. I do not find anything from those questions which in a way is attempting to fish out evidence which is barred under Order 11 of CPC. The Court below has applied its mind, deleted certain questions and it directed the defendant to file interrogatories only to specific question mentioned in the order. I find no illegality or irregularity in that order. Therefore, the writ petition is dismissed.

M.N. KRISHNAN, JUDGE.

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